

Subject
22
1952

OGC Has Reviewed

22 Dec 52

Finance Division

Office of the General Counsel

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(Shipment and Storage of Effects)

REFERENCE: Memorandum from Finance Division to General Counsel dated October 1952, subject as above.

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1. The above memorandum written on behalf of the NE Division refers to subject [REDACTED] as a military staff agent. Further inquiry of NE and examination of personnel records have developed, however, that he is, instead, a Marine Corps officer on detail to this Agency. We, therefore treat him as a member of "Military Personnel" in what follows.

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2. [REDACTED], in connection with official orders directing PCS from [REDACTED] was authorized to ship at Government expense to the United States "for storage prior to his eventual return to the U.S." a portion of his household goods weighing not to exceed 24,000 pounds. Relying on such authorization [REDACTED] shipped 12,263 pounds of household effects and had them put in storage here. We are asked to advise which rules apply in such a case, and what part of such expense may be paid by the Agency.

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3. Regulations of [REDACTED] parent service cover the situation of personnel on detail to another agency such as CIA. Part K, Paragraph 6500 Joint Travel Regulations for Uniformed Services effective 1 April 1951 as follows:

"Unless otherwise provided for or restricted by law, a member on loan, assignment or detail to another department or agency may be authorized travel, transportation or station allowances pertaining to such other department or agency or those pertaining to his own department or agency whichever is greater."

It is important to note that these regulations permit the granting to military personnel of the benefits of the standard CIA allowances in the matter of travel, transportation or station allowances where these are greater than those of the uniformed services. The regulations do not require the granting of such greater benefits or make them a matter of right. The same discretion on the part of the Agency will be discerned in each of the other regulations bearing on the problem.

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a. "Military personnel attached or assigned to CIA for duty shall retain all monetary rights and benefits which would accrue to them under like circumstances and conditions had they not been assigned to CIA, except that travel, allowances, and related expenses, (other than post differentials and separation allowances,) may be paid in accordance with Agency Regulations applicable to civilian personnel where such regulations provide benefits substantially similar to or greater than military regulations."

The same [redacted] gives a formula by which the rates of civilian allowances applicable to military personnel are to be determined when such allowances are based on grade or pay.

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by one of the Armed Services for duty with CIA "may be paid travel, allowances and related expenses in accordance with Agency regulations applicable to civilian personnel where such regulations provide benefits substantially similar to or greater than those granted under military regulations."

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6. [redacted] include the following:

"Incident to assignment of employees to permanent duty stations outside the continental United States, its Territories and Possessions, the following expenses in addition to those normally payable may be allowed in accordance with applicable provisions of the Foreign Service Regulations: ~~None~~

(2) Travel and transportation expenses, including transportation of household goods and personal effects, of an employee and his immediate family to his successive posts of duty, and on the termination of his services, to his residence at time of appointment or to a point not more distant, or upon retirement to the place where he will reside.

(3) Cost of storing the household goods and personal effects of an employee who is absent under orders from his

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usual post of duty, or who is assigned to a post to which, because of emergency conditions, he is not permitted to take his household goods and personal effects. When it is determined, because of emergency conditions, that the household goods and personal effects may not be shipped, the facts must be brought to the immediate attention of the Fiscal Division, Finance Office. Household goods and personal effects stored may not exceed the authorized weight allowance.

(4) Cost of storing the household goods and personal effects of an employee on first arrival at a post for a period not in excess of three months after each first arrival or until the establishment of residence quarters, whichever shall be shorter."

(5) (a) Travel Expenses and transportation costs incident to the removal of the members of the immediate family of an officer or employee of the Agency and his furniture and household and personal effects, including automobiles, from a post at which, because of the prevalence of disturbed conditions, it is determined by the Assistant Director concerned that the evacuation of dependents is appropriate, and the return of such persons, furniture, and effects to such post upon the cessation of such conditions, or to such other post as may in the meantime have become the post to which such officer or employee has been assigned. Facts concerning the necessity for the move must be clearly set forth in the Travel Order.* * * * *

(b) Transportation (and storage) expenses of partial shipments of household goods and personal effects to the United States when warranted by local conditions; i.e., prevalence of disturbed conditions and possibility, though indefinite, of danger to property without sufficient advance warning for its evacuation. Justification for such shipment will be a certification from the Chief of Mission concerned that local conditions necessitate the movement. The weight of such quantities shipped will be deducted from the authorized weight allowance when the balance of the employee's household goods and personal effects are returned from the overseas station. (Emphasis Supplied.)

7. The term "authorized weight allowance" in subparagraphs (3) and (5) of the above Agency regulations has reference to the Foreign Service Regulations, as the preamble to the quoted paragraph 30-28 indicates. That is to say, CIA regulations adopt the "weight allowances" of the Foreign Service. These are to be found in 180 FSTR 5.3 of the Foreign Service Regulations entitled "Weight and Volume Limitations" (Part III Admin. and Tech. Services, Foreign Service Manual). Subsection 5.11 provides that the maximum amount of effects "exclusive of an automobile" which an employee may transport at Government expense shall be in accordance with a scale related to the salary and family status of the employee. Group 1 of employees listed in the scale is made up of employees

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separated. The combination of shipments shall not exceed the weight and volume limitations prescribed in FSTR 5.31.

125.23 Method of Requesting Authorization

Requests for authorization for the advance transportation of effects shall be submitted by operations memorandum, subject: PERSONNEL, signed by the officer in charge of the post. In addition to the principal officer's recommendation that the authorization be granted and a statement of his reasons therefor, the request shall contain information as to the proposed date of shipment of effects."

9. The result of application of all the above rules is that Radosny, as a civilian employee may, in the Agency's discretion be granted the following transportation and storage allowances:

a. Shipment of not to exceed 24,000 pounds "to his successive posts of duty".

b. Storage for a period of three months only and only at post of duty on first arrival; special right of storage if employee is "absent under orders from his usual post of duty" or "is assigned to a post to which because of emergency conditions, he cannot take or at which he is unable to use, his furniture and household and personal effects."

c. Shipment "from a post at which, because of the prevalence of disturbed conditions, there is immediate danger to life and property."

d. Shipment and storage of partial shipments only when the Chief of Mission certifies that disturbed conditions and possibility of danger to property necessitate the movement.

10. Military Personnel Division has advised according to the referenced memorandum that subject's parent service, on the other hand, would grant him the following allowances:

- "a. Shipment of effects not to exceed 9,000 pounds,
- b. Storage of Government expense, time unlimited,
- c. Shipment to the U. S. at any time."

We have consulted the Joint Travel Regulations for Uniformed Services together with Public Law 438 - 82nd Congress (Department of Defense Appropriation Act of 1953) Section 632 of which sets the limit of 9,000 pounds just referred to. The rules do permit storage, for an unlimited period, of household effects of a member of the military upon his being initially ordered to an overseas post when his effects are not to accompany him. He may also ship his effects at Government expense between posts of duty upon any permanent change of station. Storage will also be paid for a year from the

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date of return of a member of the military from overseas service. We have, however, been unable to find in the military regulations any provisions specifically applicable to the [redacted] situation.

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[redacted] volunteered to phone the "Household Section" at the [redacted] and give them the facts of our case. He was advised that whereas the Department was unable to point to anything in the Joint Travel Regulations as authority, the fact was that often in cases like [redacted] where a short time was to intervene before the individual's return to the United States, it was the practice to authorize partial shipment of goods in anticipation of such return.

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11. We conclude:

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a. The Agency would have the discretion of granting to [redacted] either that set of privileges relating to transportation and storage of effects which relates to his status as a member of the uniformed services or that set of privileges which relates to the Agency's civilian employees;

b. We find no authority either in civilian or military regulations for payment by the Government of any storage charges whatsoever under the circumstances.

c. There is no authority in military travel regulations covering the cost of shipment of household effects in such a case. Neither can the civilian regulations be said to cover the situation unless we are to recommend the adoption by this agency of the practice said to exist in the uniformed services, of approving payment for such advance shipments as if they were part of the eventual shipment of goods to accompany an employee on his later return PCS to the United States. We do not so recommend because we consider the practice a substantial departure from the regulations.

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d. While there is no doubt [redacted] was instructed by his superiors that he might make this partial shipment at government expense, the record is devoid of proof of any prior administrative determination that the interests of the United States would be served by such action. Even if it may properly be said that the Foreign Service Regulation permitting "advance shipment of effects" (125.21 supra) is to be read bodily into the Agency regulations, it must be conceded that no relief is to be found in such a course because, again, there is no record whatsoever of any administrative determination that storage facilities at [redacted] new foreign post were "not available" or were "inadequate" or that the effects shipped were "surplus to his needs because of his

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occupancy of Government-furnished quarters or the severe limitation of housing accommodations available at the post".

12. Accordingly we are forced to reply to Finance Division that the only possible source of authority to which we can point for payment of the shipping or storage expenses involved is in [REDACTED] The ID/A may authorize payment of such items if on consideration of all the facts of the case he finds that the problem arises and such expenses were incurred only because of the peculiar functions of the Agency and the special, unique duties of an employee-detail like [REDACTED]

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13. The questions asked in Paragraph 6 of your memorandum all assume that [REDACTED] is a military staff agent. Because we feel he must be treated as belonging in the category of military personnel, we consider these questions inapplicable to the particular case. For your guidance, however, we would say that in our opinion neither a military staff agent nor a member of military personnel may in any case with propriety be granted privileges in the matter of transportation and storage of personal effects greater in sum total than those which one or the other of his two capacities, civilian or military, affords him. Such a person cannot properly be granted a set of privileges which is neither that of the uniformed services nor that of civilian employment, but is an altogether new set of privileges incorporating what happen to be in the individual case the best features of both.

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WCC/llm:ed (16 December 1952)

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